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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter of	)	
Assessment and Collection of Regulatory Fees for Fiscal Year 1999	)	MD Docket No. 98-200

COMMENTS OF SPACE IMAGING L.P.

Space Imaging L.P. ("Space Imaging"), licensee of a commercial remote-sensing system comprised of two low-Earth orbit satellites, strongly supports the Commission's Regulatory Fee Notice of Inquiry.[1] The Commission currently imposes one generic regulatory fee on all non-geostationary orbit ("NGSO") satellite systems — regardless of the number of satellites that the system contains and the type of service in which the system operates.[2] By treating all NGSO systems as identical for purposes of cost recovery, the current regulatory fee scheme unfairly burdens companies such as Space Imaging that operate only a few satellites in virtually uncontested frequency bands.

I. Smaller Constellations Of NGSO Satellites In Non-Telecommunications Services Benefit Less From Ongoing Commission Regulatory Work and Should Pay Lower Regulatory Fees.

The Commission should create a new regulatory fee category for small constellations of NGSO satellites. Section 9(b)(3) of the Communications Act requires the Commission to "add,

[1] Space Imaging's two-satellite remote-sensing system is not yet operational. Assuming Space Imaging commences operations as expected, Space Imaging will pay regulatory fees in fiscal year 2000.

[2] In Fiscal Year 1998, the NGSO fee was $164,800 per operational system. *See* 47 C.F.R. § 1.1156 (1998).

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delete, or reclassify services in the Schedule [of Regulatory Fees] to reflect additions, deletions, or changes in the nature of services."[3] Section 9 also requires regulatory fees to bear some "reasonable relationship" to the benefits that the payer receives from the Commission's "enforcement activities, policy and rulemaking activities, user information services and international activities."[4] Although the Commission may consider other factors, including the amount that Congress requires the agency to raise through regulatory fees, the Commission has stressed its commitment to the "fair and equitable" distribution of fees among regulatees.[5]

The Commission's current, one-size-fits-all fee structure for NGSO constellations fails to equitably allocate regulatory fees among NGSO constellations, which vary greatly in size, complexity and service offerings. The IRIDIUM system, for example, will contain 66 NGSO satellites; the licensed Teledesic system will contain 840 NGSO satellites; Motorola's MACROCELL system will contain 96 NGSO satellites; and Alcatel's Skybridge II system will contain 96 NGSO satellites.[6] These and other large NGSO constellations plan to provide continuous voice and/or non-voice telecommunications services to ubiquitous earth stations located around the planet. NGSO FSS and MSS constellations must also operate in increasingly complex sharing environments and must vigorously compete with other domestic and international users for spectrum. As a result, these complex NGSO telecommunications networks consume a large portion of the Commission's regulatory resources.

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[3] 47 U.S.C. § 159(b)(3).
[4] *Id.* § 159(a)-(b).
[5] *Assessment and Collection of Regulatory Fees for Fiscal Year* 1998, Report and Order, 12 Comm. Reg. (P&F) 392, ¶ 38 (1998). *Compare id.* ¶ 15 (discussing ability to raise regulatory fees), *with id.* ¶¶ 31-41 (adopting schedule of fees scaled to the precise class and market of operational broadcast stations).
[6] Teledesic has proposed a major modification to its NGSO system which would reduce the total number of satellites in its constellation to 240 satellites.

Space Imaging's remote-sensing system, however, will use just two NGSO satellites to acquire detailed information about the Earth's surface and will remotely download sensed information through periodic transmissions to a relatively small number of earth stations. Each satellite will operate independently in uncongested and uncontroversial EESS spectrum. Compared to the massive NGSO FSS and MSS networks, Space Imaging's remote-sensing system will demand far fewer regulatory services from the Commission and, more importantly, will not be able to spread the costs of regulatory fees across as large of a consumer base. If the Commission retains the current regulatory fee regime, however, Space Imaging's two-satellite NGSO remote-sensing system will be required to pay the same $164,800 fee as Teledesic's 840-satellite global telecommunications network.

The Commission can no longer treat all NGSO systems as identical, but must adjust its regulatory fee schedules to account for the greater demands that larger, more complex NGSO constellations impose. The Commission should begin by establishing two subcategories for NGSO satellite systems: (1) systems of up to five satellites and (2) systems of more than five satellites. Alternatively, or in addition to subcategorizing systems by the number of satellites, the Commission should adjust NGSO fees by the service in which the system operates. Because NGSO telecommunications networks in FSS and MSS demand and receive more of the Commission's regulatory services than other NGSO operators, NGSO telecommunications networks should bear more of the regulatory costs. To preserve the fundamental fairness and equilibrium of the regulatory fee regime, the Commission should adopt size-based and/or service based subcategories for operational NGSO constellations.

II. Imposing Regulatory Fees on All Commission Licensees Would Impose Large Costs on Systems with Little Or No Current Satellite Revenues and Would Discourage New Entrants from Entering the Various Markets From Satellite Services.

The Commission also sought comment on a proposal from the Orbital Communications Corporation ("Orbcomm") to recover enforcement and information expenses from all NGSO licensees, rather than from only those that have launched their initial satellite. Satellite systems require years to develop. During this time, satellite licensees must commit enormous capital resources to construction and launch of the licensed satellite constellation. Imposing hundreds of thousands of dollars in regulatory fees on *non-operational* systems would provide a significant, new financial barrier that new entrants must overcome.

Paying a regulatory fee of more than $164,000 annually without any current revenue from the IKONOS remote-sensing satellites would impose a hardship on Space Imaging. Although new regulatory fees would not prevent Space Imaging from introducing its remote-sensing system, such fees might discourage prospective new entrants from pursuing new or improved satellite services. The Commission should therefore reject Orbcomm's proposal to impose regulatory fees on all NGSO licensees regardless of operational status.

III. Conclusion

To allocate regulatory fees more equitably, the Commission should adopt a structure for NGSO satellites systems based on the number of satellites in the constellation and/or the service

in which the constellation operates. To preserve incentives for new satellite entrants, the Commission should impose regulatory fees only on operational NGSO systems.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Patricia A.M. Kelley, do hereby certify that on this 7th day of January 1999, a copy of the foregoing Comments of Space Imaging L.P. was sent via hand delivery to the following:

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